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February 27, 2012

VIA U.S. MAIL AND
EMAIL MSC_clerk@courts.mi.gov

Mr. Corbin R. Davis
Clerk Michigan Supreme Court
P O Box 30052
Lansing, MI 48909

Re: ADM 2010-22 and MRPC7.3

Dear Mr. Davis:

This letter is to advise the Court of my position in opposing the adoption of ADM 2010-22. Although I had been sending letters to prospective clients, based on filings in Circuit Court, and am aware of the proposed rule indicating that there should be a fourteen day waiting period before this type of letter could be sent, I believe that this waiting period is over broad and not warranted. Advising potential clients of the existence of litigation, is a service to these litigants. Further, I am offended at the characterization of this as “Trolling” and the rule being labeled an “anti-trolling” proposal by those in support of this proposal. This proposal seeks to artificially limit information that is a matter of public record. If the sealing of records is necessary, the Plaintiff should seek ex-parte relief to do so. The filing party should not be given an advantage by limiting a responding parties’ access to information or representation. Any actions that a Plaintiff could take within 14 days after filing, such Plaintiff could take prior to filing. Thus obviating the need for a fourteen day waiting period, or any waiting period for that matter.

I received phone calls from many individuals to whom I have sent correspondence who have indicated to me that they were thankful that they were made aware that litigation was pending so that they could timely prepare for this litigation and hire counsel, myself or other counsel, to represent them in this matter without waiting an extended period of time, thus avoiding having their spouse or the opposing party gaining an advantage. If this proposal is

adopted, Plaintiffs would have the same advantage this proposal seeks to control responding parties from having.

It seems to me that setting an artificial limit on the ability of a responding party to seek counsel and/or counsel seeking to help those responding parties by offering representation, is unfair and unwarranted. There is no limit to the extent of preparation a Plaintiff has in determining to move forward with divorce litigation, if this proposal is enacted, Defendant's would be severely disadvantaged in their ability to respond and be properly represented.

I bring to the Court's attention, my representation of an, active duty military service member and a resident of Hawaii, who was sued for divorce in the Oakland County Circuit Court. He was served on December 26, 2011, in Michigan while on leave, after filing was made on December 22, 2011, by his wife who had their child here in Michigan. He became a client of mine after I had sent him a letter concerning representation immediately after his wife had filed her Complaint. He had previously instituted divorce proceedings in Hawaii on December 16, 2011. His wife had not yet been served and was avoiding service. If he had not received my letter indicated above and been unaware of counsel to represent him he would have been prejudiced by his return to Hawaii without seeking counsel to respond to his wife's "Emergency Motion", concerning his daughter. Being properly represented by the undersigned resulted in the Oakland County Circuit Court declining jurisdiction in favor of the Court in Hawaii. This is but one of many instances where early representation has resulted in a level playing field for both litigating parties.

To the extent that prior violence is deemed to be an issue to be considered as is noted in the staff comments, surely minor restrictions as to the "solicitation" could be imposed such as a preclusion of "solicitation" of an individual when there is a Personal Protection Order filed. To the extent that Plaintiffs' attorneys need to properly arrange affairs of their clients at the outset of litigation, this should be completed prior to the filing of the Complaint. In reality, what is the difference in a Defendant's first knowledge being served with a Summons and Complaint by a process server or receiving a "solicitation" letter? There seems to be no difference affecting a Defendant's propensity for violence.

There is no limitation on broader market advertising, nor should there be. This restriction on solicitation unfairly limits the sole or small practitioner and others from seeking to timely advise potential clients of available services and puts Defendants at a disadvantage. In my opinion it is an unnecessary restraint. Proponents may cite limited circumstances, which are problematic for the filing spouse, but such anecdotal and infrequent circumstances should not dictate wholesale restrictions on such direct contact. On the whole, it has been my experience that individuals who receive information from me that litigation is pending are pleased that they have adequate timely information about the filing of the initial pleadings and timely information concerning representation.

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Should you wish me to provide additional information regarding this matter, I would be happy to do so.

Very truly yours,

A handwritten signature in cursive script, reading "Merrill Gordon". The signature is fluid and elegant, with a long horizontal flourish extending to the right.

Merrill Gordon

MG/mmh